Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of:	)	
	)	
Petition for Rulemaking to Amend the Commission's Rules Governing Retransmission Consent	)))	MB Docket No. 10-71

COMMENTS OF LIN TELEVISION CORPORATION

John Hane
Paul Cicelski
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street NW
Washington, DC 20037

Counsel to LIN Television Corporation

Rebecca Duke
Vice President, Distribution

Joshua Pila
Regulatory Counsel

LIN Television Corporation
One West Exchange Street
Suite 5A
Providence, RI 02903-1058

May 18, 2010

Table of Contents

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of:	)	
	)	
Petition for Rulemaking to Amend the Commission's Rules Governing Retransmission Consent	)))	MB Docket No. 10-71

COMMENTS OF LIN TELEVISION CORPORATION

The television marketplace has changed tremendously in the eighteen years since Congress enacted the Cable Television Consumer Protection and Competition Act of 1992[1] (the "1992 Cable Act"). Those marketplace changes compel broadcasters to seek retransmission consent fees, and a reasonable level of retransmission fees is absolutely necessary to the preservation of high quality, free over-the-air television service. The retransmission consent process is working exactly the way Congress intended and, if left undisturbed by government, it will continue to bring great benefits to consumers. The Commission should dismiss the Petition for Rulemaking[2] in this docket because the relief it seeks would have catastrophic consequences for free over the television and is specifically proscribed by the 1992 Cable Act.

---

[1] Pub L. No. 102-385, 106 Stat. 1460 (1992).

[2] Petition for Rulemaking to Amend the Commission's Rules Governing Retransmission Consent, MB Docket 10-71, filed March 9, 2010 by Time Warner Cable Inc., DIRECTV, Inc., DISH Network LLC, Charter Communications, Inc, Verizon, Cablevision Systems Corp., Mediacom Communications Corp., Bright House Networks, LLC, Insight Communications Company, Inc., Suddenlink Communications, American Cable Association, OPASTCO, Public Knowledge and New America Foundation (collectively, "Petitioners"). We refer to all Petitioners except Public Knowledge and New America Foundation as "MVPD Petitioners".

Introduction and Summary

Although the retransmission consent process is not "broken", as the Petitioners assert, LIN Television Corporation d/b/a LIN Media ("LIN") believes it can be improved. Our comments offer insight into one high-profile carriage dispute to show that the dynamics of carriage negotiation are far different than the Petitioners portray. Based on that experience, we propose two simple steps the FCC can take that will protect the legitimate interests of consumers without placing a government thumb on either side of the scale of commercial negotiations. First, the MVPDs should give their subscribers clear, actual notice, at least 30 days before a carriage agreement terminates, if that agreement has not already been renewed. Second, if a party to carriage negotiations files a complaint with the Commission alleging a violation of good faith in that the other party's position on price is unreasonable, the good faith of the price position should be determined with respect to the average price and the highest price the MVPD pays for all of its programming, based on actual audience delivery. These measures should greatly expedite the process of resolving good faith bargaining complaints because they are tied to objective criteria.

The Petition's Appeals Are Not Based on Facts and Reason

The Petitioners argue that, by authorizing broadcasters to seek fees from MVPDs for the right to retransmit their signals, Congress gave broadcasters special statutorily created rights that they would not otherwise have. Petitioners ask the FCC, in effect, to moderate the supposed bargaining advantages Congress gave broadcasters by imposing new rules on broadcasters. They argue that the existing rules "simply fail to give the FCC the tools needed to regulate effectively [broadcasters'] unreasonable price demands and holdup threats . . . ." Petition at 16. The Petitioners appear to argue that in a "free market" MVPDs would be entitled to retransmit (and charge their subscribers for) broadcast signals for free, and without the consent of broadcasters. Petition at 7-8. Since "free" carriage without consent is the MVPDs' baseline for a fair transaction, the Petitioners appear to argue that the provisions of the 1992 Cable Act requiring MVPDs to obtain consent from broadcast stations before taking and re-selling their broadcast signals actually distort the market and give undue bargaining leverage to broadcasters.

LIN disagrees. There is no rational basis to allow MVPDs to take and sell broadcast signals without the stations' consent. The Petition, however, does not appeal to reason. Its lexicon is emotive: "threats of blackouts" and derivations of that phrase appear throughout (20 times), "hostage" is used three times (pages 1, 2 and 28), "holdup" is repeated (pages 5 and 16), "spiraling carriage fees" and "skyrocketing" costs are emphasized (pages 1 and 5), as are "extortionate tactics" and "brinksmanship" (both on page 15). The MVPD Petitioners of course understand the economic fundamentals of the television programming and distribution markets as well as anyone. Yet they have made no effort to frame their request for government intervention in rational or market terms, because their arguments are plainly unreasonable when cast that way.

Emotional appeals may resonate with people who have little time to look closer, but they are a very bad basis for policy changes. This is especially true when, as we explain below, the proponents of change have created the "facts" giving the emotional appeal its zing. We urge the Commission to resist simplistic portrayals of complex trends and to reject emotional appeals for new regulations that would tilt the competitive balance in favor of pay television at the expense of those who rely on free television and those who supply it. LIN does not ask any consumer to pay money to access any of the media it distributes on its television stations, web sites and mobile platforms. LIN only asks competing program packagers and distributors – those that compete with LIN for viewers, programming and advertising revenue, but which want to package and sell LIN's signals as part of their competing services – to pay LIN a modest fee for the right to do so.

Why the MVPD Petitioners Filed the Petition

One of the MVPD Petitioners' motives is transparent: they want the government to intercede in private negotiations to help them get a critical input to their for-profit business enterprises at a substantial discount to market rates. Other motives are less obvious. With MVPD household penetration stalled at just under 90% and beginning to decline by some measures, MVPDs have launched a broad assault on free television in an effort to stop consumers from "cord cutting". The growing popularity of free television, whether online or over-the-air (or in combination), is an enormous concern for companies that get most of their revenue from selling television. To combat free online television the MVPDs have launched various "TV Everywhere" initiatives, hoping to force consumers to continue to buy traditional MVPD bundled tiers even if they only want to watch individual programs streamed *a la carte* over the Internet.[3]

To combat the other source of free television -- over-the-air broadcast television -- MVPDs have launched an assault on retransmission consent revenues. MVPDs benefit two ways when they undermine the financial model of free television. Every time a pay-only network outbids broadcasters for high-value programming, more over-the-air viewers feel compelled to

[3] For a good overview of the strategic importance of TV Everywhere to MVPDs in their efforts to stifle free television, see *TV Competition Nowhere: How the Cable Industry Is Colluding to Kill Online TV,* Free Press, January 2010 (available at http://www.freepress.net/files/TV-Nowhere.pdf). In the executive summary, Free Press argues that "[t]he dominant distributors and studios have a long history of scrambling to kill online TV and trying to preserve the current market structure and prevent disruptive competition." According to Free Press, most of the Petitioners "have pressured programmers to keep their best content off the Internet." *Id.* Free Press observes that "[w]hile it may be economically rational for cable, phone and satellite companies to squash online competitors, the use of anti-competitive tactics is bad for American consumers and the future of a competitive media industry." *Id.* All of these statements apply equally to the MVPDs' coordinated battle against retransmission fees.

sign up for MVPD service and fewer MVPD subscribers are willing to cut the cord. And of course, when programming migrates from broadcast to pay-only channels, the MVPD Petitioners get to sell the local advertising inventory in that programming, further undermining the financial foundation of free television while increasing their own revenues.

Why Broadcasters Seek Signal Carriage Fees and Why They Are Necessary

Broadcasters today pursue signal carriage fees to offset the effects of rapidly rising costs and declining revenues. Both trends have their roots in the enormous growth of the MVPD market. In the last two decades, pay television services provided by MVPDs have become the dominant form of video distribution in the United States. In 1992 cable penetration stood at just under 60% of U.S. households.[4] By 2009, MVPD household penetration was almost 90%.[5] In 1993, most MVPDs subscribers had access to fewer than 53 channels.[6] By 2006, the number of satellite delivered program networks, a reasonable proxy for the number of non-broadcast program channels available, grew to 565.[7] Sales of local advertising by cable companies increased from $848 million in 1993 to almost $2.8 billion in 2009.[8]

The remarkable growth in MVPD penetration and the simultaneous growth in the number and strength of non-broadcast programming networks has caused a seismic shift in the financial incentives at almost every link in the television value chain. Content owners earn substantially

---

[4] *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Report and Order, 11 FCC Rcd 2060 (1995), ("*Second Annual Video Competition Report*"), at Appendix, Table 1 "Cable Television Industry Growth: 1989-1994".

[5] FCC, "*Connecting America: The National Broadband Plan*," at 36 (2010) ("[t]he percentage of households viewing television solely through over-the-air broadcasts steadily declined over the last decade, from 24% in 1999 to 10% in 2010.").

[6] *Second Annual Video Competition Report*, Appendix, at Table 3 "Channel Capacity of Cable Systems: 1993-1994".

[7] *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Thirteenth Annual Report, (MB Docket No. 06-189) 47 CR 1 (2009) at ¶ 20.

[8] See Exhibit 1.

greater profits when they sell to programmers of pay networks. Especially in the last few years, pay network programmers have outbid broadcast networks for some of the highest value and most popular programming. As pay television networks have expanded in number and reach, and as they have acquired high value programming that for decades was available to consumers for free, the free television broadcast business has contracted, both in share of the television marketplace and in real terms. Advertising sales by local broadcast stations declined by 28% in the last decade, from $16.4 billion in 2000 to $11.8 billion in 2009.[9]

Policymakers should be concerned about how these trends impact consumers. Free television is becoming a less reasonable option for consumers who would prefer to forego rapidly rising MVPD fees. Broadcast signals remain free, of course, but some of the most popular programming is now exclusive to networks that are not available for free to anyone. Major sports programming is the easiest to trace. In the last five years, for example, marquee professional (Monday Night Football) and collegiate (Bowl Championship Series) football games have moved from over-the-air broadcast to ESPN, notoriously the most expensive basic tier pay network. Local professional and college games have moved to expensive regional sports networks. For example, in some of LIN's markets, the following sports programming moved from local broadcast stations to regional sports networks:

- In Indianapolis, Indiana Pacers games moved from WTTV, an independent station, to a regional sports network. Indiana and Purdue University games moved to the Big 10 Network.
- In Austin, Houston Astros games have moved to a regional sports network, as have most of the San Antonio Spurs basketball games and all Texas Rangers baseball games except Friday night games. Most University of Texas basketball games migrated to ESPN.
- In Grand Rapids, the Detroit Tigers, the Detroit Pistons and the Detroit Redwings all moved from broadcast carriage to a premium pay regional sports network.

---

[9] *Id.*

- In Green Bay, the Milwaukee Brewers and the Milwaukee Bucks, previously available free over-the-air, are now carried on a pay regional sports network.

The story is the same everywhere. Much of the most popular sports programming has moved from broadcast distribution to pay networks, and now is available only to consumers who subscribe to MVPDs.

The direct pay system is an enormous competitive disadvantage to broadcasters. Without some access to direct pay revenue, broadcasters simply cannot remain competitive in the market for high-quality programming, especially when MVPDs take larger and larger shares of local advertising revenue too. Consumers who subscribe to MVPD service are going to pay *something* for the programming they watch whether it is carried on the local CBS affiliate or on ESPN. Even if broadcasters charge MVPDs nothing for the right to retransmit their signals, the MVPDs will charge consumers.[10]

A program carried on a broadcast station is always available for free to anyone who chooses not to pay for MVPD service. Congress recognized this fact in 1992, and it enacted the broadcast signal carriage provisions of the 1992 Cable Act in part to ensure that over-the-air viewers continued to have access not just to the broadcast signals, but also to high quality programming:

> [Broadcast television] programming is otherwise free to those who own television sets and do not require cable transmission to receive broadcast signals. There is a substantial governmental interest in promoting the continued availability of such

[10] *See, e.g.* § 2(19) of the 1992 Cable Act ("a substantial portion of the benefits for which consumers pay cable systems is derived from carriage of the signals of [broadcast stations]. * * * Cable systems, therefore obtain great benefits from local broadcast signals which, until now, they have been able to obtain without the consent of the broadcaster or any copyright liability. This has resulted in an effective subsidy of the development of cable systems by local broadcasters. While at one time, when cable systems did not attempt to compete with local broadcasters for programming, audience, and advertising, this subsidy may have been appropriate, it is so no longer and results in a competitive imbalance between the 2 industries.")

> free television programming, especially for viewers who are unable to afford other means of receiving programming.[11]

Broadcasters must seek retransmission payments from MVPDs because they compete with pay only networks for expensive programming. The same trends that have driven some attractive sports and entertainment programming from broadcast to MVPD platforms could threaten the ability of local broadcasters to produce and air locally-responsive programming. As LIN described in its comments filed in the Future of Media proceeding,[12] in the past two years LIN has invested heavily to increase both the amount and the quality of the local programming it produces and airs. Signal carriage fees, though a modest portion of our revenue, helped us make those investments during a time of especially challenging market conditions. If MVPD systems continue to take larger shares of local television advertising revenue and broadcast stations are not able to make up that revenue from other sources, many stations eventually may be unable to sustain the high fixed costs of local program production. And the local programming television stations produce and air is important both to MVPD subscribers and over-the-air viewers.

Why Carriage Interruptions Occur

A central premise of the Petition is that broadcasters engage in "brinksmanship" to force MVPDs to accede to "unreasonable" price demands. Petition at 15-16, 27. The Petitioners argue that broadcasters' "threats" to "pull their signals" confuse consumers and give broadcasters unwarranted leverage. Petition at 1, 6, 15-16. The MVPD Petitioners ask the FCC to adopt new rules that the Petitioners claim will restore a balance of power to retransmission negotiations in the Petitioners' world view. In essence, the Petitioners want the FCC to allow MVPDs to continue carrying broadcast signals after the term of an existing retransmission agreement

[11] 1992 Cable Act, Section II(12).

[12] Comments of LIN Television Corporation d/b/a LIN Media, *Examination of the Future of Media and Information Needs of Communities in a Digital Age*, GN Docket 10-25 (filed May 7, 2010).

expires unless and until the broadcaster obtains an FCC determination that the MVPD is not negotiating in good faith.

The Petitioners' argument assumes as a given that *broadcasters* drive negotiations to the brink and attempt to confuse consumers in order to obtain the leverage of duress that comes as an existing agreement is about to expire. But, most broadcasters likely share LIN's experience: some MVPDs simply refuse to begin serious negotiations until the last minute. They know that a loss of carriage is expensive for broadcasters, and that in most cases they can obtain an unwarranted extension or convince a broadcaster essentially to capitulate on important terms to avoid a carriage disruption.

The overwhelming majority of retransmission negotiations are completed with no loss of carriage. But when interruptions do occur, they often result from an MVPD's seemingly calculated decision to stall negotiations until the last minute. Unsurprisingly, the MVPDs cite the same crises that in many cases they fabricated as reasons that the FCC should grant them rights to carry signals past the end of an agreement's term.

LIN's experience in negotiations with Time Warner Cable ("TWC") in 2008 illustrates the challenge a broadcaster faces when a MVPD attempts to run out the clock. In the fall of 2005, LIN sent TWC notice of its retransmission consent election for the 2006-2009 cycle. Realizing it might take time to reach agreement, we allowed TWC to carry our stations without paying any cash consideration, subject to either party's right to terminate with 45 days' prior notice.

TWC carried our stations for free under this rolling extension for **two years**. After many requests, in July 2008 we finally received TWC subscriber data we had requested eight months earlier. Less than a week later we sent TWC a proposal, the first made by either party. Over the next month, we repeatedly asked TWC to respond. TWC's negotiators said they were "busy with other deals" but "hopeful" that they could put LIN on a "schedule" for negotiations. TWC never provided any substantive response and never even agreed to a timeframe for negotiations.

On August 18, 2008, we told TWC that we would not consent to ongoing carriage of our stations for free after October 2, 2008 because TWC had made no effort to negotiate. We offered to devote all resources necessary to reach agreement as rapidly as possible, and we offered a revised interim agreement under which TWC could carry our stations (with a specified fee payment) until it found time to negotiate. We also reminded TWC of its responsibility to give its customers notice by September 2, 2008 if it no longer intended to carry our stations after October 2, 2008. Still, TWC did not respond.

LIN issued a press release September 15, 2008 to give consumers and public officials advance notice of the potential disruption.[13] We contacted state, local and federal officials,[14] we set up a call center to answer consumers' questions, and we designated employees in every market to respond to inquiries from viewers and government officials. We placed information on our stations' websites and ran "crawls" on our TV programming informing viewers about the potential carriage interruption and where they could find additional information. In contrast, even though it had never responded to any of our proposals, TWC told its customers it was negotiating with LIN, and its customer service representatives gave assurances to subscribers that LIN's signals would not be dropped.[15]

---

[13] *See* Exhibit 2.

[14] *See, e.g.,* Exhibit 3 (Letter from Rebecca Duke to FCC Commissioner Michael Copps). LIN sent similar letters to all FCC Commissioners.

[15] *See* Exhibit 4.

After close of business on September 24, 2008, more than two months after LIN provided a proposal, we finally received a first proposal from TWC. That proposal acknowledged receipt of our two prior proposals but did not address the terms LIN had proposed or explain why TWC had rejected them. Hopeful of avoiding a carriage interruption, we provided TWC with a written response just two business days later. We worked until midnight on October 2, 2008 in an effort to reach agreement, but because of the long delay in starting negotiations we were unable to reach agreement before the previous, long-extended agreement expired.

Before the carriage interruption, TWC had carried LIN's stations for free for almost **three years** after LIN elected retransmission consent for the 2006-2009 cycle. We did not give notice of termination to exercise leverage over TWC or to force a "showdown". We just wanted TWC to come to the bargaining table. Even after we gave notice to TWC, TWC did not make an offer or counteroffer for the first 37 days of the 45 day notice period. And during that period, LIN received many indications that TWC was assuring its subscribers that it *was* negotiating with LIN, and that at least in some cases it was downplaying the potential for loss of service.[16]

If the rules TWC and the other Petitioners now propose had been in place in 2008, TWC could have continued carrying LIN's signals for free, even though it had already carried those signals for years, at no cost, under a supposedly short term agreement, and had declined for many months to engage in any negotiations at all. The lack of FCC authority aside, as discussed below, basic fairness dictates that the government should not force a broadcaster to permit ongoing carriage by a MVPD that does not show at the bargaining table in time to complete a negotiation before an existing agreement expires.

---

[16] *See* Exhibit 4.

How Carriage Interruptions Can Be Avoided and How Consumers Can be Protected

LIN agrees that participants in all broadcast signal carriage negotiations should respect the interests of viewers. Ideally, all viewers would have access to all broadcast signals on all MVPD platforms at all times. But commercial negotiations do not always work out that way. The 1992 Cable Act provides, "No cable system or other multichannel video programming distributor shall retransmit the signal of a broadcasting station, or any part thereof, except . . . with the express authority of the originating station . . . ."[17] The FCC has repeatedly acknowledged the clarity of this statutory language when rejecting MVPD requests for various types of non-consensual carriage.[18] The Petition offers several theories to support the idea that the FCC has some sort of indirect or ancillary jurisdiction to impose non-consensual interim carriage. However, this is not a question of whether the FCC might find ancillary authority to do something it is not specifically authorized to do. The Petition asks the FCC to assert ancillary authority to do things Congress has directly proscribed. No application of ancillary authority extends so far.

LIN proposes two simple steps the FCC can take to protect consumers without tipping the scale in favor of either party in signal carriage negotiations. First, consumers should receive clear, timely, actual notice of the date on which a MVPD's rights to carry a broadcast channel will expire. Second, the FCC should resolve good faith bargaining complaints that are based in whole or in part on price disagreements, by comparing the price that is alleged to constitute bad faith to the average price the MVPD pays for all programming, based on audience delivery, and the highest price the MVPD pays for any program network, based on audience delivery.

---

[17] 47 U.S.C. § 325(b)(1).

[18] *See, e.g.*, *Reciprocal Bargaining Obligations*, 20 FCC Rcd. 5448 (2005); *Mediacom Communications Corporation v. Sinclair Broadcast Group*, 22 FCC Rcd. 47 (2007).

Consumers are entitled to clear, actual notice. The Commission's rules include a specific mandate to protect the interests of consumers when carriage negotiations break down: cable operators must notify their subscribers at least 30 days in advance before discontinuing any program service.[19] Timely and clear advance notice, if it is given, would allow consumers time to make alternative arrangements if their service provider will no longer carry a channel that is important to them.

An MVPD has flexibility to provide notice to subscribers "using any reasonable written means at its sole discretion."[20] Unfortunately, in practice, many MVPDs do not give their subscribers clear and timely *actual* notice. The "notice" many cable systems provide consists of publication in the legal notices section of local newspapers. This does little more than insulate the MVPD from complaints that it ignored its Section 76.1603 obligations altogether and should not be deemed to satisfy the notice requirement.

In some cases, MVPDs work harder to discount the possibility of a carriage interruption than they do to give their subscribers notice that service could be discontinued. For example, before TWC discontinued carriage of LIN's stations in 2008, it gave "legal" notice in the newspaper.[21] But evidence suggests that it sent an entirely different message to its subscribers, confusing and dissuading them from finding a different provider.[22] In many cases the only notice of an impending signal loss that a subscriber actually receives is from the broadcaster itself or from press accounts.

---

[19] 47 C.F.R. § 76.1603(c).

[20] 47 C.F.R. § 76.1603(e).

[21] *See* Exhibit 5.

[22] *See* Exhibit 6.

The FCC can and should promptly issue a public notice advising operators subject to Section 76.1603 that they must provide clear, actual notice to subscribers at least 30 days before the end of a retransmission agreement term if a new agreement has not been reached. The FCC should not prescribe the specific methods the MVPD should use in each case, because circumstances vary. But the MVPD notice to subscribers should be clear, consistent, and factually accurate. This simple step would help assure that consumers actually receive the notice that the FCC's rules already require MVPDs to give.[23] At the same time, it would provide strong incentives for MVPDs and broadcasters to conclude renewal negotiations at least 30 days before an existing agreement expires. The Commission should consider an MVPD's failure to provide clear, timely and actual notice as evidence of bad faith when resolving complaints.

MVPDs should also be admonished not to provide inconsistent information to subscribers once they have given notice pursuant to Section 76.1603. MVPDs communicate with their subscribers in many ways – on their web sites, in billing statements, on "barker" channels and program guide screens, and by telephone. MVPDs directly undermine the benefit the advance notice is intended to confer when they give consumers inaccurate information or unjustified assurances during the 30 day period before an agreement ends. With clear, 30 day advance notice, consumers concerned that their MVPD may discontinue carriage of a broadcast signal have time to obtain access from other sources. The market is competitive and nearly all consumers have several choices, including the simple choice of receiving broadcast signals over-the-air. The Commission should consider evidence that a MVPD has provided conflicting information to subscribers to be indicative of bad faith bargaining.

[23] Although the Commission may require a rulemaking proceeding to impose 30 day notice requirements on non-cable MVPDs, the Commission can state that it will consider clear advance notice to non-cable subscribers (or the lack of notice) as a factor bearing on the MVPD's good faith bargaining. The Petitioners concede that the FCC has substantial authority to regulate the conduct of signal carriage negotiations, so this simple and very effective step, which is consistent with the 1992 Cable Act, should be uncontroversial.

Because the Petitioners claim to protecting the interests of consumers with the new regulations they seek, it is appropriate for the Commission to consider the business practices of MVPDs that limit their subscribers' ability to respond to changes in the MVPDs service offerings. At the same time that the marketing and subscriber retention tactics of mobile service providers are coming under increasing scrutiny, MVPDs are adopting similar practices. For example, one MVPD's subscriber terms and conditions provide for negative option (automatic) renewals of term commitments. The provider can even use an auto-renewal to increase the rate, unless a subscriber remembers to contact the provider before the end of term and cancel (the operator "reserves the right to increase your monthly fee each time your package automatically renews for another term. * * * If you wish to renew, do nothing").[24] The MVPD reserves the right not only to raise rates, but also to change or discontinue services, and it imposes stiff early termination fees.[25] Like the failure to give clear notice that carriage of a channel may be discontinued, this sort of MVPD business practice undermines the ability of MVPD subscribers to respond to service changes and even price hikes by their providers.

Plainly, if the MVPDs are interested in protecting the interests of consumers, they have many options that do not require invoking the government to adopt new regulations. If the Commission does choose to initiate a rulemaking to consider how the interests of consumers can be protected when programmers and MVPDs disagree on terms of carriage agreements, the Commission should examine the full range of business practices that impact consumers. A full and open assessment of MVPD subscriber policies is an essential element of any such review.

---

[24] See Exhibit 6, at paragraph titled "AUTOMATIC RENEWAL TERMS - MONTHLY FEES".

[25] *Id.* at paragraph titled "CANCELLATION FEES".

Good faith bargaining disputes over price should be resolved based on objective comparisons. Although positioned as an effort to impose new limits on broadcasters' procedural rights in carriage negotiations, we suspect that the Petitioners' real objective is to reduce the fees MVPDs pay to broadcasters for signal carriage rights. Like the majority of the good faith complaints that come before the FCC, the Petition arises from a basic disagreement about the value of broadcast signals to MVPDs. The Petitioners, though, say nothing about the rates they pay for non-broadcast program networks. Although broadcasters and MVPDs may disagree about whether broadcast stations should be paid at, above or below parity with pay networks, there is no better starting point for any discussion about the reasonableness of broadcast retransmission fees. The market for pay network program rights is mature, while the market for broadcast signal carriage fees is emerging.

LIN does not believe it is appropriate for the FCC, in reviewing good faith bargaining complaints, to consider the price positions of either side. However, when a party files a good faith bargaining complaint that relies in whole or in part on the assertion that the other party's position on price is unreasonable, the complaining party should be required to provide evidence of the average price the MVPD pays for all of its programming, and the highest price it pays for any program channel, based on actual audience delivery. The FCC should summarily dismiss or deny any good faith bargaining complaint that is based on a price dispute if the complaint does not include this baseline information.

As shown in Figure 1, Morgan Stanley research shows that based on audience delivery, *broadcast signals are by far the least expensive programming MVPDs acquire*. LIN would support full, across-the-board "transparency" in carriage fees. The MVPDs' opaque and anticonsumer tiering and pricing practices skew the market in ways that are harmful to consumers and broadcasters alike.

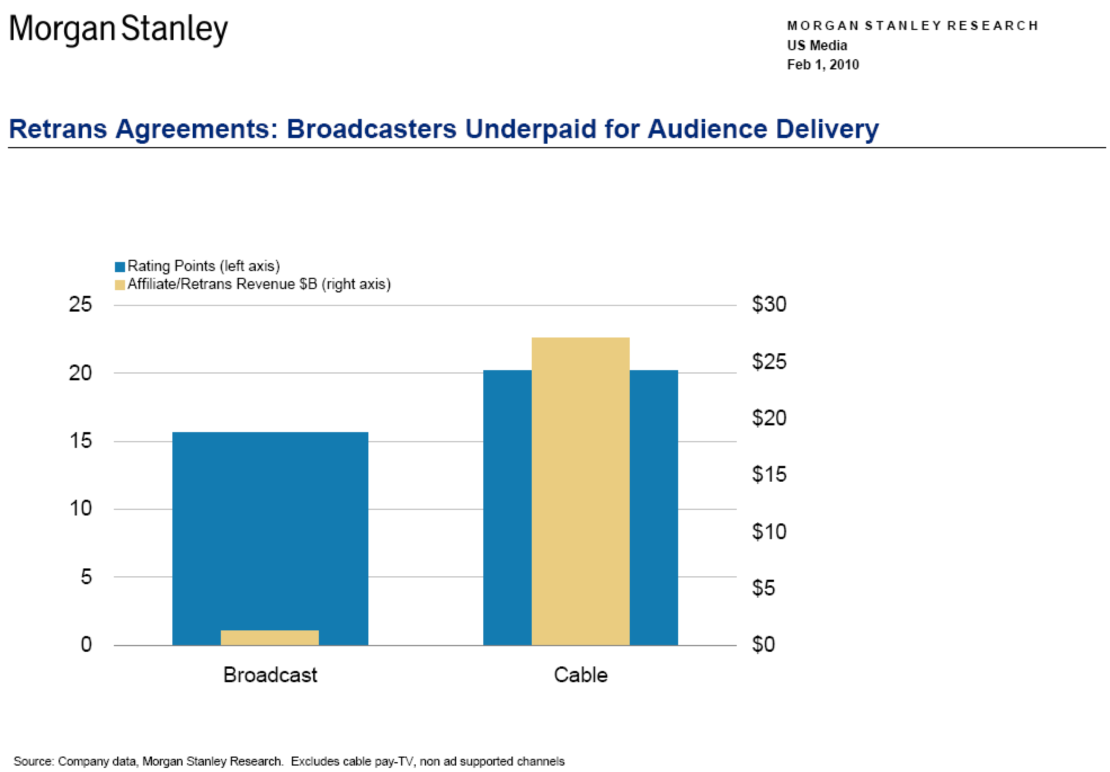


Figure 1 Courtesy Morgan Stanley; © 2010 Morgan Stanley

Even if all broadcasters and all MVPDs always negotiate in good faith, impasse is likely to occur from time to time. But the fact that negotiations break down does not mean that the retransmission regime is "broken." Negotiations between MVPDs and non-broadcast programmers occasionally break down too.[26] Regulatory intervention aimed at further reducing the already very low statistical incidence of carriage interruptions is simply unnecessary. Carriage interruptions for broadcast and non-broadcast programming are extremely rare and, in the case of broadcast signals, always temporary.

---

[26] See, e.g., *Cablevision drops Food, HGTV networks*, CNNMoney.com, January 1, 2010 (available at http://bit.ly/cEAyGs); *Versus, DirecTV Disconnect In Carriage Dispute*, Mike Reynolds, Multichannel News, September 1, 2009 (available at http://bit.ly/dnQzFv).

The Network Nonduplication and Syndicated Exclusivity Rules Do Not Confer Special Benefits on Broadcasters

The Petitioners argue that the FCC's network nonduplication and syndicated exclusivity rules give broadcasters a "monopoly" on programming and that broadcasters use monopoly leverage to demand excessive retransmission rates. Their premise is wrong and their logic is flawed. In an unregulated market, a program supplier (or any other supplier) is free to confer exclusive geographic rights for its distributors. This sort of distribution arrangement is both common and uncontroversial. Notably, the network and syndicated programming carried on broadcast stations is essentially the only programming carried on MVPD systems for which MVPDs ever have more than one source.

The FCC's network nonduplication and syndicated exclusivity rules do not give broadcasters special rights that would otherwise be unavailable. They do exactly the opposite: *they limit the area in which broadcasters may enforce exclusivity rights* that might otherwise be available. Section 76.92 of the Commission's rules explicitly limits the area in which a broadcast station may acquire exclusive rights to network programming:

> With respect to network programming, the geographic zone within which the television station is entitled to enforce network non-duplication protection and priority of shall be that geographic area agreed upon between the network and the television station. In no event shall such rights exceed the area within which the television station may acquire broadcast territorial exclusivity rights as defined in § 73.658(m) of this Chapter . . . .

The FCC's syndicated exclusivity rules contain almost exactly the same language.[27] Both rules are government-imposed limits on the ability of broadcast stations and their program suppliers to agree to exclusive distribution areas.

[27] *See* 47 C.F.R. § 76.101 (note).

In most cases the effect of these rules is to limit broadcasters' exclusivity to a small portion of the geographic area of their Designated Market Areas ("DMAs"). Absent FCC regulations, broadcasters could enforce exclusivity throughout their DMAs if they could obtain those rights from their program suppliers. The assertion that the nonduplication and syndicated exclusivity rules confer special government benefits on broadcasters is specious: the plain language of the regulations restricts rights broadcasters would otherwise have. Further restricting broadcasters' ability to negotiate for and enforce exclusivity rights would certainly benefit MVPDs in carriage negotiations, but there is no reason for the FCC to expand the advantage those rules already give to MVPDs.

Conclusion

For the reasons explained above, LIN urges the Commission to reject the Petition and to consider issuing a public notice stating that notice to consumers under Section 76.1603 of the FCC's rules must be actual notice, timely given at least 30 days before a carriage agreement expires, unless the agreement has been renewed. The Commission should also state that when good faith bargaining complaints are based on disagreements over price, the Commission will assess the good faith of the price position by comparison to the average price and the highest price the MVPD pays for all of its programming, based on actual audience delivery.

Respectfully submitted,

LIN TELEVISION CORPORATION

/s/ John Hane

John Hane
Paul Cicelski
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street NW
Washington, DC 20037

Counsel to LIN Television Corporation

/s/ Rebecca Duke

Rebecca Duke, Vice President, Distribution
Joshua Pila, Regulatory Counsel
LIN Television Corporation
One West Exchange Street
Suite 5A
Providence, RI 02903-1058

May 18, 2010

EXHIBIT 1

MEDIA TRENDS TRACK

TV Basics: Television Ad Expenditure Components

In 2007, Spot TV (National and Local) accounted for $24.5 billion (35%) of total TV ad dollars.

	Network Broadcast TV (a) (b)	Network Broadcast TV - Olympics	Local Broadcast TV (d)	Local Broadcast TV - Political	National Syndication	National Cable TV (a)	Local Cable TV (d)	Local Cable TV - Political
1980	4,078.0	25.0	4,300.2	90.8	46.6	62.1	8.6	0.0
1981	4,432.8	0.0	4,983.1	26.1	70.0	138.7	18.6	0.0
1982	4,917.3	0.0	5,564.4	159.6	139.9	250.6	34.3	0.0
1983	5,565.8	0.0	6,426.4	32.0	279.9	389.3	54.3	0.0
1984	6,557.9	100.0	7,301.0	143.2	391.8	633.6	86.4	0.0
1985	6,453.2	0.0	8,221.7	29.5	485.1	821.0	140.0	0.0
1986	6,676.8	0.0	9,003.5	209.5	559.8	934.9	192.8	0.0
1987	6,820.2	0.0	9,599.6	32.4	761.3	1,050.9	218.5	0.0
1988	7,127.2	200.0	9,905.5	246.2	898.3	1,302.5	273.5	0.0
1989	7,471.3	0.0	10,471.2	67.0	1,284.6	1,654.5	354.9	0.0
1990	8,093.9	0.0	9,630.0	264.3	1,156.1	2,115.6	450.6	0.0
1991	7,681.2	0.0	9,267.6	48.5	1,143.8	2,360.7	532.0	0.0
1992	7,699.7	701.6	9,371.3	293.5	995.5	2,800.2	735.6	0.0
1993	8,368.6	0.0	9,753.2	91.2	1,052.2	3,229.7	848.4	0.0
1994	8,757.0	349.9	10,534.5	461.4	1,157.4	3,897.1	1,023.7	0.0
1995	9,534.9	0.0	12,088.7	57.9	1,327.8	4,842.5	1,271.0	0.0
1996	10,285.2	577.5	12,442.2	476.7	1,429.5	5,430.7	1,424.9	0.0
1997	10,915.8	0.0	13,176.9	102.5	1,669.8	6,104.4	1,601.4	0.0
1998	11,474.6	485.7	13,750.6	648.6	2,049.7	7,227.1	1,890.5	0.0
1999	12,367.7	0.0	15,232.8	79.1	2,098.4	8,804.6	2,298.3	0.0
2000	13,582.6	785.0	16,351.7	676.0	2,162.0	9,660.3	2,491.0	25.0
2001	13,345.0	0.0	15,012.6	151.6	2,070.6	9,870.6	2,756.7	10.0
2002	14,113.0	606.1	15,808.4	911.5	1,643.6	11,191.8	3,055.0	50.0
2003	14,404.9	0.0	16,729.1	169.3	1,951.8	12,475.6	2,869.5	25.0
2004	15,143.4	704.3	16,192.1	1,504.5	2,233.5	13,840.7	3,101.2	150.0
2005	15,529.1	0.0	17,484.9	424.4	2,152.0	15,290.8	3,321.6	52.7
2006	15,501.9	650.0	16,169.9	2,100.0	1,969.3	15,971.9	3,346.2	300.0
2007	15,515.2	0.0	17,614.5	677.3	1,974.2	17,053.0	3,713.2	53.3
2008	14,676.9	600.0	14,817.4	2,000.0	1,934.8	17,885.7	3,337.1	385.3
2009E	13,334.0	0.0	11,751.3	911.6	1,792.4	17,186.9	2,787.4	174.5
2010E	12,998.6	487.5	11,499.2	2,390.3	1,672.2	18,050.0	2,914.9	526.7
2011E	12,889.1	0.0	11,616.7	1,241.5	1,636.8	19,148.4	3,036.5	292.3

EXHIBIT 2

PRESS RELEASE

FOR IMMEDIATE RELEASE

Contact: Courtney Guertin
401-457-9501; courtney.guertin@lintv.com

LIN TV Announces Retransmission Contract with Time Warner Expires October 2, 2008

Time Warner unresponsive to LIN TV's attempts to negotiate

PROVIDENCE, RI, September 15, 2008 – LIN TV Corp. (NYSE: TVL), a local television and digital media company, announced today that its current contract with Time Warner Cable, Inc. ("Time Warner") expires on October 2, 2008. Since July, 2008, LIN TV has attempted to reach a new long-term agreement or an extension agreement with Time Warner for both its stations' analog and high-definition signals, however, Time Warner has not responded to its proposals.

As a result, LIN TV expects Time Warner to discontinue carriage of its television stations when the contract expires on October 2, 2008. This will deprive viewers of important local news, traffic and weather, in addition to popular programming, including the *Major League Baseball World Series*, *NFL Football* games, and popular shows such as *Wheel of Fortune*, *Law & Order*, *Jeopardy*, *CSI*, and *Survivor.*

Fifteen LIN TV-owned local stations are currently carried by Time Warner in the following markets: Austin; Buffalo; Columbus; Dayton; Ft. Wayne; Green Bay; Indianapolis; Mobile; Springfield (Mass); Terre Haute and Toledo.

LIN TV has successfully reached agreements with every major cable, satellite and telecommunications company, except for Time Warner, all of which have recognized the fair market value of its stations' signals.

"Most cable operators, like their satellite and telecommunications competitors, now understand and acknowledge that fair and equitable compensation is essential to ensure the viability of local television," said LIN TV's President and Chief Executive Officer Vincent Sadusky. "We look forward to negotiating with Time Warner so we may reach a deal with them before our contract expires."

In the event that LIN TV's signals are pulled, viewers may continue to watch their local news and top-rated programming through alternative means, including switching to a satellite service such as DISH Network® or a telecommunications service such as Verizon's FiOS TV.

LIN TV has formed a marketing and promotional partnership with DISH Network to encourage consumers to switch to DISH Network if a LIN TV local station signal has the potential to become unavailable or is removed from a cable system. The parties jointly market LIN TV's availability on DISH Network so viewers will have the opportunity to continue watching their favorite local news and programming.

For a limited time, all new subscribers to DISH Network in the Austin, Buffalo, Columbus, Dayton, Ft. Wayne, Green Bay, Indianapolis, Mobile, Terre Haute and Toledo markets will receive a $50 incentive to switch to DISH Network. For more information and to make the switch, call 1-888-DISH-950.

Verizon's FiOS TV service also carries LIN TV stations in the Buffalo area and the Ft. Wayne market. Viewers may call 1-888-438-3467 for more information on FiOS TV.

About LIN TV

LIN TV Corp., along with its subsidiaries, is a local television and digital media company, owning and/or operating 29 television stations in 17 U.S. markets, all of which are affiliated with a national broadcast network. LIN TV's highly-rated stations deliver important local news and community stories, along with top-rated sports and entertainment programming, to 9% of U.S. television homes, reaching an average of 10 million households per week.

EXHIBIT 3

TELEVISION | DIGITAL | ONLINE

October 3, 2008

Via Hand Delivery and E-mail

Commissioner Michael J. Copps
Federal Communications Commission
445 12th Street, S.W.;Room 8-A302
Washington, D.C. 20554

Re: Time Warner Cable, Inc. Carriage of LIN Television Corporation Stations

Dear Commissioner Copps:

Late yesterday Time Warner Cable, Inc. ("Time Warner") discontinued carriage of the signals of television stations licensed to LIN Television Corporation ("LIN") and its subsidiaries in eleven television markets after our existing signal carriage agreement expired. The purpose of this letter is to inform you that we made every effort to avoid this disruption and that we are working hard to ensure that all viewers will continue to have access to LIN's signals while we attempt to negotiate a carriage agreement with Time Warner.

Background. As you know, broadcasters compete with cable providers when we purchase programming (which represents by far the largest share of our costs) and when we sell advertising (which accounts for the great majority of our revenue). In the past several years it has become clear that we cannot continue to buy and produce the highest quality programming if cable distributors carry and re-sell our programming without paying a fair share of these costs. In 2005 LIN decided to seek modest compensation from cable and satellite distributors in exchange for signal retransmission rights for the 2006-2009 retransmission consent cycle. We knew that negotiating agreements would take time, so we allowed multichannel providers to continue to carry LIN's signals for months or years, in many cases without paying any compensation at all, before approaching a provider and commencing a particular negotiation. We have now reached agreements with all major cable and satellite providers except Time Warner.

In November of 2007 we began attempts to negotiate with Time Warner. Apparently because it enjoyed carriage of LIN's signals at no charge, Time Warner resisted our efforts for eight months before the parties finally met in July of this year. Less than a week after that meeting we made an initial proposal seeking compensation that is consistent with industry norms. Time Warner did not respond to our proposal and refused even to agree to a schedule for negotiations. On August 18 we notified Time Warner that we would no longer consent to *free* retransmission of LIN's stations after October 2, but we offered continued retransmission on interim terms pending negotiation of a final agreement. Time Warner never responded to this, LIN's second proposal.

After close of business on September 24, 2008, more than two months after LIN provided a proposal, we finally received a first proposal from Time Warner. That proposal acknowledged receipt of our two prior proposals but did not address the terms LIN had proposed or explain why Time Warner had rejected them. Hopeful of avoiding a carriage interruption, we provided Time Warner with a written good faith response just two business days later. Both parties exchanged proposals yesterday, but because of the long delay in starting negotiations we were unable to reach agreement before midnight.

What LIN is doing to mitigate viewer disruption. LIN maintains state-of-the-art technical facilities that provide excellent over-the-air coverage to the great majority of households in every market we serve. In addition, we have reached long term retransmission agreements with all other major multichannel video distributors serving our markets, including DISH Network, DIRECTV, Comcast, Charter, AT&T, Verizon and others. Essentially all LIN viewers now served by Time Warner can receive LIN's signals over-the-air or through another multichannel distributor, and the great majority of affected Time Warner subscribers have three or more options to receive LIN television programming.

Last month, LIN launched a coordinated initiative in every affected market with three goals: (i) to inform affected subscribers that Time Warner might not carry LIN stations after October 2; (ii) to educate affected viewers about their other options for receiving LIN's signals; and (iii) to provide assistance in taking the steps necessary to ensure uninterrupted service. Specifically:

- From September 15 through yesterday LIN stations in each affected market ran crawls and special announcements informing viewers that the station may not be available on Time Warner systems after October 2. These crawls and announcements told viewers how they could obtain more information.
- We have established a call center reachable by special toll-free telephone numbers that consumers can call 24/7 for more information.
- Each of our stations has designated staff to read and respond to emails and telephone calls from viewers.
- We have established a series of special web pages that provide information about alternative ways Time Warner subscribers can continue to receive LIN's signals.
- We have launched an extensive print, broadcast, and web campaign informing viewers of alternative ways to receive LIN's signals.
- We have provided community leaders in each market with advance notice and we will keep them informed throughout the process.
- We have encouraged our other distribution partners to make extra efforts to be responsive to inquiries from Time Warner subscribers in LIN markets.

We believe our efforts have been effective: our call center has fielded thousands of calls and our stations have responded individually to thousands of other calls and emails. Unfortunately, LIN's education efforts might have been even more effective but for Time Warner's failure to provide subscribers with 30 days' advance notice as required by FCC rules and its repeated assurances in press statements, in advertising and in response to direct inquiries from its subscribers, that LIN's signals would still be carried on Time Warner systems after October 2. As a result many Time Warner subscribers may not have expected to lose LIN's signals today.

I assure you that LIN will continue to take all reasonable steps to educate viewers about their options for continued access to LIN's stations, which are among the most widely viewed television channels in each market we serve. We believe the best result for all parties would be a final agreement that assures resumed carriage. We are actively working on this process, and we will continue to devote all necessary resources to reaching a fair agreement with Time Warner as quickly as possible.

Please feel free to contact me if you have any questions about these events or would like more information.

Sincerely,

RDuke

Rebecca Duke
Vice President of Distribution

cc: Rick C. Chessen, Senior Legal Advisor
Monica Desai, Chief, Media Bureau
Susan Weinstein, Vice President of Programming, Time Warner Cable

EXHIBIT 4

11252 Cornell Park Drive
Cincinnati, Ohio 45242
Tel 513-489-5000

TIME WARNER CABLE Southwest Ohio

October 3, 2008

[redacted]

Dear [redacted]

I'm writing to update you on the business dispute between Time Warner Cable and WDTN, which is owned by Lin TV. We have been actively negotiating for several months with Lin TV to renew our retransmission consent agreement, which granted Time Warner Cable the legal right to retransmit the channel. However, the agreement expired last night at midnight without a deal. By refusing us an extension, Lin TV pulled WDTN from our lineup.

While we hope we can resolve this issue quickly, I wanted you to be aware of the issue, as you may receive questions from your constituents. You also may notice heightened interest before certain sporting events such as NFL Games. Time Warner Cable will make some NBC programming available through video streaming. We will also make available, at no cost, antennas and a/b switch devices to enable customers to view the WDTN signal directly off air.

We believe this is a business dispute between two companies and that elected officials need not become actively involved. However, we wanted you to be aware of the issues:

- Time Warner Cable's agreement with WDTN, which gave us the legal right to retransmit their programming, expired on Thursday, October 2, at midnight. We have been actively negotiating for several months with Lin TV, the owner of WDTN, to renew that agreement. Unfortunately, we have not yet reached an agreement and they have refused our request for an extension. By refusing us an extension, Lin TV pulled the channel from our lineup.

- We had no intention of dropping WDTN from our lineup. The choice was WDTN's. Time Warner Cable is prohibited by law from broadcasting WDTN without an agreement. WDTN refused to sign an agreement or grant Time Warner Cable an extension, and WDTN pulled its signal from Time Warner Cable's lineup. We are working hard to reach an agreement or an extension so that our customers can watch WDTN programming. However, Lin TV and WDTN are refusing to resolve the issue fairly.

- WDTN wants our customers to pay for something that's FREE. WDTN is demanding millions of dollars for programming that is available for free with an antenna. This programming has been free for years and all of a sudden Lin TV wants to charge Time Warner Cable customers millions for it. Much of it – popular programs like Survivor, NCIS and How I Met Your Mother - is also available for free on the Web. With the broadcasters' advertising business suffering and broadcast TV ratings falling, Lin TV is trying to maintain their profits on the backs of our customers.

- We're on our customers' side. WDTN is just trying to make more money without providing anything in return that they're not already offering for free. We have been negotiating in good faith and we are making an honest effort to reach a deal that is fair and reasonable for our customers. The decision to pull WDTN from our lineup was made by LIN TV and WDTN, not Time Warner Cable.

In short, we believe that Dayton citizens deserve better. If you have any questions, or if we can further assist you or your office, please feel free to call me at (937)396-8730. We will keep you updated as negotiations progress.

Sincerely,

Michael Gray

Michael Gray
Director, Government Affairs
Time Warner Cable – Southwest Ohio

Channel Information

Information concerning WTHI-CBS

You may be hearing information about negotiations going on now between Time Warner Cable and LIN TV, the parent company of WTHI, our CBS affiliate here in Terre Haute. We want you to know that we are negotiating in earnest and good faith on behalf of our subscribers.

- We hope that Lin TV will not take its channel away from our customers.

- We are trying to manage costs for our customers; Lin TV is looking to make more money. We are negotiating in good faith to reach a fair and reasonable deal with broadcasters, as we always have, but we cannot allow our customers to bear the costs of the broadcasters' challenged business model.

- We have successfully reached fair agreements with hundreds of broadcasters and cable networks across the country in recent years and are confident we will with Lin TV too.

Time Warner Cable's agreements with programmers to carry their services routinely expire from time to time. We are usually able to obtain renewals or extensions of such agreements, and carriage of programming services is discontinued only in rare circumstances. The following agreements with programmers are due to expire soon, and we may be required to cease carriage of one or more of these services in the near future:

WTHI - CBS
Oxygen on Demand
BBC on Demand
NBC Universal on Demand
CNN on Demand
Cartoon Network on Demand
Adult Swim on Demand
CNN en Espanol on Demand
tbs on Demand
TNT on Demand
Court TV on Demand
Turner Classic Movies on Demand
Lifeskool on Demand
Encore
Encore (West)
Encore Action
Encore Action (West)
Encore Drama
Encore Drama (West)
Encore Love
Encore Love (West)
Encore Mystery
Encore Mystery (West)
Encore WAM
Encore Westerns
Encore Westerns (West)
Flix
Flix (West)
Fuel TV
GAC
GSN
i-LifeTV
NBA TV
Outdoor Channel
Sci-Fi
Showtime
Showtime (West)
Showtime Beyond
Showtime Beyond (West)
Showtime Extreme
Showtime Extreme (West)
Showtime FamilyZone
Showtime FamilyZone (West)
Showtime HDTV
Showtime Next
Showtime Next (West)

Showtime Showcase
Showtime Showcase (West)
Showtime Too
Showtime Too (West)
Showtime Women
Showtime Women (West)
Sleuth
Starz
Starz (West)
Starz Cinema
Starz Comedy
Starz Edge
Starz Edge (West)
Starz In Black
Starz in Black (West)
Starz Kids and Family
Starz Kids and Family (West)
The Sportsman Channel
TMC
TMC (West)
TMC Xtra
TMC Xtra (West)
Universal HD
USA Network

In addition, from time to time we make certain changes in the services that we offer in order to better serve our customers. The following changes are planned:

None at this time.

CLOSE WINDOW

TIME WARNER CABLE
THE POWER OF YOU™

From: Sharon Howard
Sent: Thursday, September 18, 2008 10:52 AM
To: Lisa Barhorst
Subject: TW E-mail

Interesting viewer e-mail about TW.

Sharon D. Howard
Executive Director of Community & Public Relations
WDTN-TV
(937) 424-1500
(937) 297-1418 - FAX
sharon.howard@wdtn.com

From: Dee Jaye [mailto:_____j@glasscity.net]
Sent: Thursday, September 18, 2008 9:28 AM
To: TimeWarnerCustomers
Subject:

Just thought I'd let you know this is the statement I received from Time Warner:

We are in negotiations with them. We have been through this before with them and it always comes down to the
11th hour. I do not believe you have any worries about loosing your favoriate station.

From: Lisa Barhorst
Sent: Wednesday, September 17, 2008 2:05 PM
To: Rebecca Duke; Courtney Guertin
Subject: FW: Exerpt from chat with Time Warner rep:
A viewer sent this to me.

Lisa Barhorst
VP & General Manager
(937) 293-2101
4595 South Dixie Dr.
Dayton, OH 45439

From: Carolyn [mailto:[redacted]@woh.rr.com]
Sent: Wednesday, September 17, 2008 2:03 PM
To: Lisa Barhorst
Subject: Exerpt from chat with Time Warner rep:

I find it interesting that he assured me that they would not drop WDTN. See text highlighted in red.
I hope he is right. Otherwise, I am switching to ATT.
Have a good day!!

David Jones: Hello! Thank you for choosing Time Warner Cable's Online Chat Support, my name is David. Please wait while i retrieve your account information.
David Jones: May I address you by your first name?
Carolyn: yes
David Jones: Thank you, Carolyn.
David Jones: Carolyn, I understand that you have a query about WDTN, am I correct?
Carolyn: Yes
Carolyn: Are you going to continue to carry WDTN in Dayton after Oct. 3?
David Jones: Please allow me some more time while i am still researching on the issue.
Carolyn: OK
David Jones: Thank you for your comments concerning Time Warner Cable's programming. We appreciate your input and will share it with our corporate office.
David Jones: Contractual agreements for carriage or removal of specific programmers are negotiated at the corporate level and information about what our Western Ohio region customers want on their cable service is taken into consideration during those negotiations. Each individual affiliate, such as WDTN, makes the ultimate decision as to what programming they will provide to Time Warner for airing. If there is specific programming that you would like to see added, we encourage you to contact the affiliate directly.
Carolyn: I have done that.
Carolyn: Please answer my question
David Jones: Carolyn, as of now we do not have any update on WDTN.
2
Carolyn: Please be sure your corporate office knows that there are plenty of customers upset about this.
Carolyn: This is a guarantee: If you drop WDTN. I will drop Time warner
Carolyn: I have been a customer for many years, as I am sure you can tell by my account.
David Jones: Carolyn, please be assured that WDTN won't be dropped.

----- Original Message -----
From: Lisa Barhorst
To: Carolyn

Sent: Wednesday, September 17, 2008 8:19 AM
Subject: RE: WDTN

Dear Ms. [redacted],
Thank you for your email and your support of local broadcasting. We will keep you informed about the situation.

Lisa Barhorst
VP & General Manager
(937) 293-2101
4595 South Dixie Dr.
Dayton, OH 45439

From: Carolyn [mailto: [redacted]@woh.rr.com]
Sent: Tuesday, September 16, 2008 7:14 PM
To: TimeWarnerCustomers
Subject: WDTN
I am not putting up with losing WDTN!! I will change internet providers instead!! Thanks for giving us the heads up.
[redacted]

EXHIBIT 5

How to play

Fill in the blank squares using 1 to 9, without repeating any number in any run line.

The lines must be filled in with numbers which add up to the total in the shaded box at the top or beginning of each line.

A number in the bottom half of the shaded box is the downard total.

A number in the top half is the horizontal total.

YESTERDAY'S SOLUTION

	19	7		6	23		7	41	6
\10	8	2	\7	1	6	9\9	1	6	2
\13	9	4	20\38	5	8	7	6	9	3
\11	2	1	8	13\11	9	2	10\8	7	1
		29\16	9	7	21\	\5	1	4	7\
	10\14	1	3	2	8	11\23	9	8	6
\3	1	2	7\21	4	9	8	13\6	5	1
\23	9	8	6	\10	4	1	3	2	
	6\4	3	1	7\	23\3	2	1	19\	8\
\5	1	4	9\10	2	8	11\19	9	7	3
\38	3	6	8	5	9	7	\4	3	1
\8	2	5	1	\10	6	4	\13	9	4

Sudoku Puzzle

9/1/08
© Puzzles by Pappocom

Complete the grid so that every row, column and 3x3 box contains every digit from 1 to 9 inclusively.

2				9	6	4		3
			7			9	5	
1	8	9	5					
		1			5		4	
	9	8	3		2	1	6	
	4		6			7		
					3	2	7	8
	7	5			9			
3		4	8	1				6

DIFFICULTY RATING: ★☆☆☆

Solution, tips and computer program at www.sudoku.com

377258

YESTERDAY'S ANSWER

4	9	8	1	6	2	5	3	7
3	7	6	4	5	9	1	2	8
1	5	2	7	3	8	4	6	9
2	4	1	6	9	7	3	8	5
7	6	3	2	8	5	9	1	4
5	8	9	3	4	1	2	7	6
6	2	5	9	7	3	8	4	1
9	1	4	8	2	6	7	5	3
8	3	7	5	1	4	6	9	2

750 Legal/Public Notices

TIME WARNER CABLE

Time Warner Cable's agreements with programmers to carry their services routinely expire from time to time. We are usually able to obtain renewals or extensions of such agreements, and carriage of programming services is discontinued only in rare circumstances. The following agreements with programmers are due to expire soon, and we may be required to cease carriage of one or more of these services in the near future: **Granite Broadcasting, LIN Television Corporation, BBC VOD, Flix, Fuel TV, Game Show Network, Great American Country, Inspirational Life, MOJO, NBA TV, NHL Network, Outdoor Channel, Universal HD, USA, Sci-Fi Channel, Starz/Encore, Showtime/Movie Channel, Lifeskool VOD, Oxygen VOD.**
In addition, from time to time we make certain changes in the services that we offer in order to better serve our customers. The following changes are planned: Effective 8/28/08, ESPNU HD was added on channel 725. Effective 9/24/08, EXPO TV On Demand will be discontinued.
You may downgrade or terminate service without charge at any time. Further, if carriage of a premium channel is discontinued and you have incurred installation, upgrade or other one-time charges relating to such premium service within six months prior to the date of the change, you may elect to downgrade or terminate service within 30 days and obtain a rebate of any such charge.

**Time Warner Cable,
355 Chicago St.,
Buffalo, NY 14204**

Unscramble these four Jumbles, one letter to each square, to form four ordinary words.

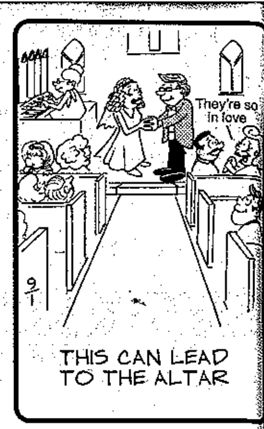
HILEW

ESING

HAXLEE

www.jumble.com

YARRET



Now arrange the circled letters to form the surprise answer, as suggested by the above cartoon.

Answer here:

(Answers tomorro

Saturday's | Jumbles: PARKA FUZZY STURDY COMMO
Answer: When the mayor cut the budget, he held a FUND "RAZOR"

Cryptoquip

9/1/

The Cryptoquip is a substitution cipher in which one letter stands for ano If you think that X equals O, it will equal O throughout the puzzle. Single letters, short words and words using an apostrophe give you clues to locat vowels. Solution is by trial and error.

Today's Cryptoquip Clue: Z equals M

CGT ZYFTE, DSNF CBMYFL

ONZT NET CN CGT XBFM, GB

XTLDF CN ZBMT ETLDUBE

ZYFTEBU PTSNOYCO.

Saturday's Cryptoquip: When a contortionist becomes miffed or upset, would you say he's really bent out of sha

CRYPTOQUIP Book 3, $3.50; Book 4, $3.50; or both for $6.00. Send (check/m.o.) to CryptoClassics Book #___, P.O. Box 53647 Orlando, FL 32853-6475

9/1

Word Game / *By Kathleen Saxe*

TODAY'S WORD — REVERTS

(REVERTS: rih-VERTS: Returns to a former condition, habit, practice, etc.)

Average mark 13 words
Time limit 25 minutes

Can you find 22 or more words in REVERTS? The list will be published tomorrow.

SATURDAY'S WORD — PRECEDENT

pecten	preteen	enter	creed	deer	tepee
peen	pretend	entree	creep	dent	terce
peer	recede	epee	crepe	deter	tern
pence	recent	erect	crept	need	terpe
pent	reed	erne	decent	teed	tree
pert	rend	cede	decree	teen	trend
peter	rent	cent	deep	tend	
precede	repent	center	deepen	tender	
preen	rete	cere	deeper	tenrec	

RULES OF THE GAME: 1. Words must be of four or more letters. 2. Words that acquire four letters by the addition of "s," such as "bats" or "dies," are n allowed. 3. Additional words made by adding a "d" or an "s" may not be us For example, if "bake" is used, "baked" or "bakes" are not allowed, but "bak and "baking" are admissible. 4. Proper nouns, slang words, or vulgar or se ally explicit words are not allowed. To contact Word Game creator Kathlee Saxe, write to Word Game, Kathleen Saxe, United Media, Fourth Floor, 200 Madison Ave., New York, NY 10016. © 2008, United Feature Syndicate, Inc

EXHIBIT 6

Price Lock Guarantee Terms and Conditions

As your Time Warner Cable representative discussed with you at the time of your order, your receipt of the discounted services package (Time Warner Cable's Price Lock Guarantee) is conditioned upon your agreement to the terms and conditions that appear below. These terms and conditions, which include automatic renewals of your discounted
package, are a binding addition to your Time Warner Cable Residential Services Subscriber Agreement and your welcome letter (the "Addendum") confirms your oral acknowledgement of an agreement to be bound by such terms and conditions.

INITIAL TERM - MONTHLY FEES

Unless Time Warner Cable terminates your services due to a violation of the Residential Services Subscriber Agreement, you will be entitled to receive the Price Lock Guarantee at a discounted monthly rate for 12 or 24 months, as applicable commencing on the date Time Warner Cable begins to deliver all your discounted services to you (or if you were already receiving these services, on the date you elected to take advantage of this discounted services offering).

AUTOMATIC RENEWAL TERMS - MONTHLY FEES

Your Price Lock Guarantee discounted services package will automatically renew for up to two additional 12 or 24 month terms unless you notify Time Warner Cable that you wish to terminate or downgrade any or all of the Price LockGuarantee services. Time Warner Cable reserves the right to increase your monthly fee each time your package automatically renews for another term. Any such fee increase will be described in your automatic renewal notices, sent approximately 30 to 60 days prior to the end of your term. If you wish to renew, do nothing and you will automatically be re-enrolled in the package on the terms set out in the notice.

CANCELLATIONS

You may cancel or downgrade any or all of the services at any time. To cancel services, call 1-888-TWC-8585. However, to avoid early termination fees, you must notify Time Warner Cable of your intention to terminate at the times and in the manner described below.

TRIAL PERIOD

You may cancel or downgrade any or all of the discounted services without further obligation (and without incurring an early termination fee) by notifying Time Warner Cable of your intention within 60 days of the date Time Warner Cable begins to deliver your discounted services to you. You are responsible for the accrued monthly fees at the package rate until the date of cancellation or downgrade and after cancellation or downgrade you remain responsible for all
accrued monthly fees along with applicable installation charges, fees and taxes.

AUTOMATIC RENEWAL TERMS

Approximately 30 to 60 days prior to the start of each automatic renewal term for which you are eligible, Time Warner Cable will send you an automatic renewal notification. You may cancel or downgrade any or all of the services at the end of the then-current term without further obligation (and without incurring an early termination fee) by notifying Time
Warner Cable of your intention prior to the commencement of the automatic renewal term identified in the notice. Unless you notify Time Warner Cable that you wish to cancel or downgrade your services, you will automatically be re-enrolled in the package on the terms set out in the notice. The same early termination fee that applied during the initial term will also apply during each automatic renewal term.

CANCELLATION FEES

If you cancel or downgrade any or all of the Price Lock Guarantee services outside of the periods described above, or if Time Warner Cable terminates any or all of your services for good cause under its Residential Services Subscriber Agreement, you have agreed that you are obligated to pay Time Warner Cable an early termination fee of up to $150
minus either $15 or $30 (dependent on your discounted services term) for each three-month period in the then-current term during which you continued to receive the services. For example, if you cancel services four months into a 24-month renewal term, the early termination fee would be $135. You are also responsible for all monthly fees at the package rate until the date of the cancellation or downgrade. To cancel services, call Time Warner's customer service at 1-888-TWC-8585. If you downgrade from a Time Warner Cable services package consisting of all three of Time
Warner Cable's video, Digital Phone and high-speed data services, to a different services packageconsisting of any two of those three services, and you enter into a new discounted services. Addendum, the early termination fee is $75 minus $10 or $5 (dependent on your discounted services term) for each three-month period in the then-current term during which you continued to receive all three services. You are also responsible for monthly fees at the package rate until the date of the cancellation or downgrade.

OTHER TERMS AND CONDITIONS

To remain eligible for the discounted monthly fee throughout the initial term (and any automatic renewal term(s)) you must continue to receive all of Time Warner Cable's then-current Price Lock Guarantee services. If any services are cancelled or downgraded during the initial term (or any renewal term(s)), Time Warner Cable's regular charges
apply for any remaining services. You agree that you are entitled only to the Price Lock Guarantee discounted services package at the rates stated in the Addendum during the initial term and at the rate set forth in any automatic renewal notice during any renewal term for which you are eligible. You agree that Time Warner Cable has the right to add to, modify, or delete any aspect, feature or requirement of this package or its individual components, other than the price you are charged, during such periods. For example, Time Warner Cable may at any time delete any programming service(s) from its lineup or move any programming service(s) currently included in its Price Lock Guarantee package to another tier or level of service that is not included in the Price Lock Guarantee package. Under such circumstances, you would cease to receive such programming service(s) and would not be entitled to any credit or fee reduction.
The rates described in this Addendum do not include applicable taxes, franchise fees or tariffs, service or installation charges, or charges for additional products and services. For example, you may be required to pay separate fees in connection with the use of a set-top box, digital to analog converter, remote control or networking equipment, or for the receipt of premium channels, additional programming tiers, VOD or pay-per-view movies and events, premium on-line services, for excess bandwidth usage, long distance phone charges or collect calls. When you placed your order, you confirmed that you are the account holder for Time Warner Cable services at your address and that you are at least 18 years old. You agree that Time Warner Cable is entitled to assume that all the information you are providing to us is accurate.

If you have any additional questions, please visit timewarnercentral.com or call 1-888-TWC-8585.

Thank you for choosing Time Warner Cable.